REMARKS

Unrelated to patentability, the applicants have added new claims 23-29 and amended claims 11 and 21. New claims 23 and 24 are based on previous claim 21, new claims 25-29 are based on previous claims 9-11, 21 and 23 (respectively), and support for amended claim 11 can be found in various portions of the specification, for example, in the first paragraph of the *Detailed Description of the Preferred Embodiments* section as well as in previous claim 11.

Claims 8-14 and 21-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chen (U.S. Patent Number 5,751,725) in view of Jacobs et al. (U.S. Patent Number 5,414,796, hereinafter "Jacobs"). The Examiner's thoughtful and thorough reply in the *Response to Arguments* section of the last office action is appreciated; however, the applicants respectfully disagree with the Examiner's rejections and request reconsideration.

Regarding the rejection of claim 9, the Examiner cites Chen column 9, lines 56-61, column 11, lines 25-30, and column 6, lines 16-18. Chen column 9, lines 54-67 reads (emphasis added):

> Conversely, if the Yamamoto value does not check in step 212, then in step 216 the processor selects a smaller or tighter maximum SER value for the eighth rate. If the Yamamoto value does not check, the processor expects the **current frame** to be an erasure, and therefore makes subsequent comparisons more stringent to ensure that the **current frame** is determined to have been transmitted at the eighth rate under only the most stringent of comparisons. Under step 206, the processor employs the looser maximum SER value from step 214, or the tighter maximum SER value from step 216, and compares it to the eighth rate SER to determine whether the frame is erased (step 210) or confirms that the **current frame** was transmitted at the eighth rate (step 208).

Chen column 11, lines 15-30 reads (emphasis added):

> Furthermore, the routines of the present invention can **compare the currently determined rate (rate i) to previous rates**. As noted above, 90% of the time the rate of the current frame is either at the full or eighth rate in the exemplary embodiment. Similarly, under the exemplary embodiment, the probability is high that the rate of the current frame is equal to the rate of the previous frame. If a person is talking, they will

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likely continue talking (causing the current frame to be at the full rate), while if they are silent, they will likely continue to be silent (maintaining the current frame at the eighth rate). As a result, **the above-described routines can compare the determined rate of the current frame to the rate of the previous frame, and apply looser maximum and minimum SER thresholds. Alternatively, if the current determined rate differs from the previous rate, tighter thresholds can be applied.**

Chen column 6, lines 12-19 reads (emphasis added):

The control processor, coupled to at least the decoder 30, operates in conjunction with the methods illustrated in the flow diagrams of FIGS. 2-5 to select the appropriate decoded frame to be output or provided to the user, or to declare the **current frame** an erasure condition. While the control processor and decoder 30 are shown as separate elements, the control processor and decoder can be incorporated together to form a single decoder.

In contrast, claim 9 recites (emphasis added):

9.   A method comprising the steps of:
      receiving a first frame;
      determining a first frame rate for the first frame;
      decoding the first frame according to the first frame rate to produce a speech decoder filter state;
      receiving a second frame;
      determining a second frame rate for the second frame;
      determining, based on the second frame rate, if the first frame rate _was in error_ to produce an error determination;
      updating the speech decoder filter state based on the error determination to produce an updated speech decoder filter state;
      decoding the second frame using the updated speech decoder filter state.

In the passages cited by the Examiner, Chen appears to be focused on determining the status of the current frame. Chen teaches comparing the rate determined for the current frame to previously determined rates and adjusting maximum and minimum SER thresholds or applying tighter thresholds based on the comparison. However, the applicants submit that Chen, as cited by the Examiner, does not teach or suggest "determining, based on the second frame rate, if the first frame rate _was in error_ to produce an error determination," (emphasis added) as claimed. In other words, Chen does not appear to teach using a second frame rate to determine whether a previous frame rate was in error.

In the Advisory Action mailed January 10, 2006, the Examiner continues to cite

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Chen column 11 lines 15-30 as teaching that the second frame rate is used to determine whether the first frame rate was in error. The Examiner states that "a second frame rate is utilized in a comparison to a first frame that determines a suspected error in a first frame in order to adjust an SER threshold for future error detection." However, the applicants submit that Chen column 11 lines 15-30 merely suggest that an error is suspected when the frame rate determined for the second frame differs from that determined for the first frame, not that the first frame rate determination was in error. The applicants submit that the teaching of Chen, as cited by the Examiner, is focused on determining the rate of the second, or current, frame and on possible adjustments to the SER thresholds, but does not go so far as to teach "determining, based on the second frame rate, if the _first_ frame rate _was in error_ to produce an error determination." See claim 9. Simply stated, Chen column 11 lines 15-30 do not go so far as to produce an error determination of whether the _first_ frame rate _was in error._ The arguments above are also applicable to claim 11 and new claims 25 and 27.

Regarding the rejection of previous claim 21, the Examiner cites Jacobs column 11, lines 54-57 and column 44, lines 10-13. Jacobs column 11, lines 54-57 reads (emphasis added):

> In the **codebook search,** blocks 104 and 106, the optimum pitch lag L and pitch gain b values are **used in the pitch synthesis filter** such that for each possible codebook index I the synthesized speech is compared with the original speech.

Jacobs column 44, lines 10-13 reads (emphasis added):

> Referring to FIG. 22, further details of the implementation of the decoder itself are illustrated. In FIG. 22 codebook 722 is comprised of memory 750 similar to that described with reference to FIG. 17.

Amended and new claims 21, 23, 24, 28 and 29, each describe **resetting** an excitation memory, a postfilter synthesis memory, or a vocal tract filter memory. Moreover, the resetting is based on the error determination. See claims 9 and 25. Thus, the applicants submit that the prior art, as cited, does not teach or suggest what is recited in any of claims 21, 23, 24, 28 or 29.
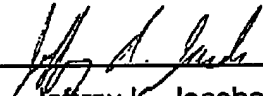
Since none of the references cited, either independently or in combination, teach

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all of the limitations of either claim 9, 25, 21, 23, 24, 28 or 29, or therefore, all the limitations of their respective dependent claims, the applicants assert that neither anticipation nor a prima facie case for obviousness has been shown. No remaining grounds for rejection or objection being given, the applicants now respectfully submit that the claims in their present form are patentable over the prior art of record, and are in condition for allowance. As a result, allowance and issuance of this case is earnestly solicited.

The Examiner is invited to contact the undersigned, if such communication would advance the prosecution of the present application. Lastly, please charge any additional fees (including extension of time fees) or credit overpayment to Deposit Account No. **502117 – Motorola, Inc.**

Respectfully submitted,
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